

APPROVED BY THE TIVERTON TOWN COUNCIL ON 3/9/09

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
COUNTY OF NEWPORT**

At a meeting of the Town Council of the Town of Tiverton, County and State aforesaid, held at the Tiverton Town Hall, 343 Highland Road, on the 23rd day of February 2009 A.D. at 7:00 p.m.

President Bollin opened the meeting with the Pledge of Allegiance to the Flag.

<b>Roll Call:</b>	<b>Donald Bollin-President</b>	<b>Jay Lambert</b>
	<b>JoAnne Arruda-Vice President</b>	<b>Cecil E. Leonard</b>
	<b>Hannibal Costa</b>	<b>Edward Roderick</b>
	<b>Louise Durfee</b>	

Town Administrator, James C. Goncalo  
Town Solicitor, Andrew M. Teitz were also present.

**Approval of Consent Agenda:**

All items listed with (CA) are to be considered routine by the Town Council and will be enacted by one motion. There will be no separate discussion of these items unless a member of the Council or a member of the public so requests, in which event the item will be removed from Consent Agenda (CA) consideration and considered in its normal sequence on the agenda.

Council President Bollin read the Consent Agenda.

Councilor Arruda made a motion, seconded by Councilor Roderick to approve the Consent Agenda.

The Consent Agenda was as follows:

**CONSENT AGENDA**

**A-1- Approval of Minutes of Previous Meetings.**

- a. Approval of Minutes from February 9, 2009 Regular Council Meeting
- b. Approval of Minutes from January 12, 2009 Regular Council Meeting
- c. Approval of Executive Session Minutes from February 9, 2009 Council Meeting

**A-2-Receipt of Minutes from Various Boards and Commissions:**

- a. Fogland Oversight Committee    d. Planning Board
- b. School Committee    e. Pocasset Cemetery Commission
- c. Historic Cemetery Committee    f. Harbor & Coastal Waters Mgt

**A-3-Correspondence-- Receive and File**

- a. Received From Bollin Family in Appreciation
- b. Received From Weaver's Cove Energy Monthly Status Reports Available on Line and in Clerk's Office
- c. Received From Town of Burrillville Resolution in support of Legislation Requiring Utilities to Pay for Relocation of Infrastructure
- d. Received From City of East Providence Resolution Supporting Necessary Municipal Tools Contained in FY 2009 Supplemental Budget Proposal

**A-4- Approval of Tax Assessor Abatements**

**PUBLIC HEARINGS- ADVERTISED**

**TLT, LLC, Harbor Ridge Subdivision – Request Parking Ban be Imposed on the South Side of Hayden Avenue From Utility Pole #3 to the Main Road – Subject to Meeting All Legal Requirements – Request by Attorney Leary to be Removed**

Attorney Jerry Leary asked the Council to remove this item from the Agenda at this time.

Councilor Durfee made a motion, seconded by Councilor Arruda to remove the request for a parking ban to be imposed on the South Side of Hayden Avenue from utility pole #3 to the Main Road. Motion passed unanimously.

The Town Council was sitting as the Board of Licensing Commissioners:

**BOARD OF LICENSING COMMISSIONERS AND PUBLIC HEARINGS:**

**John Perry, 125 Slades Corner Rd., South Dartmouth, MA – Requests Approval for Renewal of Private Detective License – Subject to Meeting All Legal Requirements**

Councilor Leonard made a motion, subject to meeting all legal requirements, to approve the renewal of a Private Detective License to John Perry, 125 Slades Corner Rd., South Dartmouth, MA. Seconded by Councilor Arruda the motion passed unanimously.

**Narragansett Electric Co d/b/a National Grid, Providence, RI – Request Renewal of Street Excavator’s License – Late Renewal – Subject to Meeting All Legal Requirements**

Councilor Leonard, with no objections from the Director of Public Works Stephen Berlucchi, made a motion to approve the late renewal of a Street Excavator’s License to Narragansett Electric Co., d/b/a National Grid, Providence, RI. Seconded by Councilor Durfee the motion passed unanimously.

**APPOINTMENTS & RESIGNATIONS**

**Arts Council – Susan Mocarski, 488 Neck Rd, Requests Appointment to Expire 6/30/2009**

Councilor Durfee made a motion, seconded by Councilor Leonard to appoint Susan Mocarski, 488 Neck Road, to the Arts Council to a term to expire 6/30/09. Motion passed unanimously.

**Historic Preservation Advisory Board – Stuart Hardy, 162 Colonial Ave, Request Appointment to Expire 6/30/2011**

Councilor Durfee made a motion, seconded by Councilor Arruda to appoint Stuart Hardy, 162 Colonial Ave., to the Historic Preservation Advisory Board to a term to expire 6/30/11. Motion passed unanimously.

**Planning Board Administrative Officer**

**a. Recommendation of Tiverton Planning Board**

Councilor Durfee made a motion, seconded by Councilor Roderick to appoint Kate Michaud. Discussion followed regarding whether an employee can serve in that position. The Town Charter prohibits employees from serving on Boards. Solicitor Teitz opinion was that the Administrative Officer can be a Board member or a Town employee. Based on Solicitor Teitz opinion, motion passed unanimously.

**Harbor Master – Removed for Advertising**

Town Clerk, Nancy L. Mello, noted according to the Town Charter, the appointment of a new Harbor Master should comply with hiring municipal employees.

Councilor Roderick made a motion, seconded by Councilor Arruda to advertise the Harbor Master position as stated in the Town Charter. Motion passed unanimously.

**UNFINISHED BUSINESS**

**Councilor Leonard – Update on Establishing Major Council Goals**

The Town Clerk compiled a summary of the goals submitted by the Councilors, the top six were presented.

Councilor Durfee made a motion to continue to discuss and set goals at the Council Workshop on March 30<sup>th</sup>. Seconded by Councilor Costa the motion passed 6-1, Councilor Leonard opposed.

**FINANCIAL BUSINESS:**

**Honorable Representative John Loughlin II – Update Regarding Governor’s Proposed Budget**

Representative Loughlin was unable to attend this meeting as he was committed to appear before the Portsmouth Town Council.

Councilor Roderick made a motion, seconded by Councilor Arruda to continue this item to March 9th. Motion passed unanimously.

**Town Administrator – Status Report on Fiscal Year 08-09 – State Aid Reductions**

Goal was to reduce the budget by \$527,000 due to State Aid Reductions. The budgets of the Town Clerk, Town Administrator and Town Treasurer have been reduced by \$43,000. Anticipate having to supplement the Sand and Salt budget by \$35,000. Problems with the current budget not being addressed yet include Fire Department overtime. Have reduced the budget leaving a shortage of \$219,330, will be going before the School Committee asking for their help with reductions. Meetings are scheduled with the Police union, Teamsters, AFSCME and Fire Dept. President Bollin wanted Account numbers for possible transfers at the next Council meeting. Councilor Leonard concerned about the time frame for reductions.

**Town Administrator – Request Council Release Carry Forward From Last Fiscal Year to current Year Arts Council's Account #1-100-665-690 for \$1,636.69**

Councilor Durfee made a motion, seconded by Councilor Leonard to release the Carry Forward from account # 665-690 for \$1,636.99 last fiscal year to the current fiscal year. Motion passed 6-1, Councilor Costa opposed.

**Town Administrator/Tax Collector – Request Council Approval of Ten Year Motor Vehicle and Personal Property Taxes**

Tax Collector Geraldine Holewiak presented list of delinquent motor vehicle and tangible taxes which are delinquent for ten or more years. Councilor Durfee questioned the diligence of the search. done by the collection agency utilized for these collections. Ms. Holewiak explained the agency has a data base that nationally searches. DMV also purges records and places a block on future registrations.

Councilor Durfee made a motion, seconded by Councilor Leonard to approve the abatements for motor vehicle and personal property taxes which have been delinquent 10 years or longer, as presented by this memo for a grand total of \$26,228.07. Motion passed unanimously.

**Town Administrator/Tax Collector – Request Council Approval of Tax Sale Charges for Property Purchased at Sale by Town of Tiverton**

Council President Bollin pointed out the abatement is for the fees, title searches, etc. for tax sale properties held by the Town. Tax Collector explained all costs and fees with interest are collected by Treasurer at time of redemption.

Councilor Leonard made a motion, seconded by Councilor Durfee to abate the tax sale charges for \$2,660.87. Motion passed unanimously.

**NEW BUSINESS:**

**Theresa Burke, Recreation Chair - Requests Permission to Advertise for Summer Recreation Positions**

Councilor Costa made a motion to approve advertising these positions. Seconded by Councilor Leonard the motion passed unanimously.

**S. Berlucchi, DPW Director – Presentation of Required DEM Report by David Cabral, PE of ESS Group**

David Cabral, PE of ESS Group presented the Stormwater II report as required by DEM. Wrote a Stormwater management plan as required, MS4 an annual report. Missing was an Excel Spreadsheet that shows all the Tiverton outfalls, has latitude and longitude, size of the outfall and the type of pipe. Should receive a report by the end of the week on the number of illicit discharges from John Lincourt, Wastewater Management Superintendent.

There are six minimum measures that have been taken with regard to Stormwater. The list is as follows:

1. Public Outreach
2. Plan shown at a Public Meeting- being presented at this meeting.
3. Illicit discharges- five year plan formulated by DPW
4. Construction site control-done by DPW and Planning/Building inspections.
5. Pollution prevention-at DPW headquarters required for sand and salt storage.
6. Other pollution prevention measures

President Bollin questioned DPW Director Berlucchi about the report relating to accomplishments or goals missed. Director Berlucchi was working with the Town Solicitor on the ordinance, missing post construction control in the ordinance. DEM sent out non-compliance letters and found some issues. Will not be ready by March 10th but will send a letter with the report detailing progress. Hope to have ordinance completed by mid April.

Councilor Durfee made a motion seconded by Councilor Costa that the Town is authorized to submit this report with the approval of the DPW Director and the Town Solicitor.

Solicitor Teitz expected to have the location of the outfalls based on the CD found in the DPW office. With this final amendment the motion passed unanimously.

**Barbara Donnelly, Chair, Board of Trustees Essex Library – Present Overview and Scope of Ongoing Effort to Build New Library**

Barbara Donnelly, Chair of the Board of Trustees for the Essex Library introduced two members of the building committee to update the Council on efforts to build a new library. Also in attendance were members of the Library

Foundation, established to accept donations. Phil Schuyler and Dick Bixby of the building committee brought a rendering of the proposed library and surrounding area and updated the Council.

The existing library facility, while historical, cannot continue to function. The building does not comply with Federal and State standards, can't be upgraded. The State has granted waivers because the building committee has been moving ahead. If the Town fails to make progress the library is in danger of losing accreditation. The State will support nearly 50% of the cost of building a new library. Have hired a consultant without using taxpayer money. Have a plan that details size, can accommodate 126 parking spots, meeting rooms, one of which has a capacity for 150 people. Looked at many parcels, but the closest one at Bliss Corners area near the Bulgarmarsh Recreation area and Citizens Bank was a good location.

Have over six acres of land being held in trust. Working with the Planning Board and Church Community Housing. Planning Board has granted approval for a paved road, have received funding to do advanced work. The conception plan has some wetlands nearby. The library has and continues to get money from foundations. Have received a \$5,000 grant from Newport County to make an energy efficient, green building and \$31,500 from RI Foundation for preliminary plans. Acutely aware of the Town's financial situation, prepared to pursue at a pace to match the Town. Looking for support of the Town Council.

The anticipated cost at this time is several million dollars. State system has money to help support some costs. President Bollin thanked the committee, appreciated the effort and the update.

**Louis Ledoux, Jr./Attorney Leary – Request Council Approval of Public Improvements on Meadow Woods Subdivision Phase 2-Ledoux Lane Extension Planning Board Memorandum**

Attorney Jerry Leary appeared before the Council requesting approval of public improvements on Meadow Woods Subdivision. Attached was a memo from the Planning Board recommending the acceptance subject to 1) Fill deep catch basins with concrete and 2) Submit as-built plans. DPW Director Berlucchi was satisfied the catch basins would be filled with four feet of concrete and be 15 feet deep.

Councilor Durfee made a motion, seconded by Councilor Leonard to accept with the set conditions subject to Planning Board restrictions. Motion passed unanimously.

**Attorney Leary Representing Stone Bridge Fire District and North Tiverton Fire District – Request Council Approval of Resolution in Support of General Assembly Enacting Legislation to Codify Boundaries**

Attorney Jerry Leary, representing the Stone Bridge Fire District and the North Tiverton Fire District, to request approval of a resolution in support of legislation to codify boundaries. Included were letters of support from both water districts. The two districts have agreed about the watering rights. The map presented showed the perimeter boundary of the Stone Bridge Fire District, consequently the rest of the map is North Tiverton.

Councilor Durfee made a motion, seconded by Councilor Leonard to adopt the resolution as presented. Motion passed unanimously.

**RESOLUTION**

It is resolved by the Town Council of Tiverton, Rhode Island as follows: The Town Council endorses passage of two (2) Acts submitted, or to be submitted, to the Rhode Island General Assembly and respectively entitled "An Act Relating to the Stone Bridge Fire District " and "An Act Relating to the North Tiverton Fire District". Copies of the Acts are attached to this Resolution.

By the Tiverton Town Council, February 23, 2009  
Donald Bollin, Council President

**Recreation Commission – Brief the Council on Proposed New Soccer Complex**

Gary Rose and Jack Cook from the Recreation Commission briefed the Council on the proposed new soccer complex. Looking for the Council to give the Recreation Commission authority to go forward with this project. Councilor Durfee questioned the progress of the Bulgarmarsh Recreation area, as the Council has not received a report. Also questioned possibility of losing a \$27,000 grant from DEM for that area. Mr. Cook anticipated using the grant before the expiration.

President Bollin noted the Town needs additional land for recreation, the problem is budget constraints. Right now looking at \$500 for land survey. Richard Bush, also on the Recreation Commission told the Council the Soccer Association was looking to help without having to use Town money. Initially there will be no Town money used. President Bollin noted if the land is available and the survey can be done with in-kind donations, sees this as a start. Councilor Durfee still concerned about taking on something that in the end will cost the Town, would like to see more realistic goals as to where the money is coming from. The Budget Committee is looking to reduce the Budget. Councilor Leonard pointed out if the Town gets involved the mowing expenses will probably increase. Asked for a time frame. President Bollin wanted to see in writing the transfer of the land requirement, the time frame, wanted something more. Councilor Durfee wanted to see some progress report on the Bulgarmarsh Recreation area.

#### **Councilor Leonard – Request Web Site Status Report From Town Administrator on Town Internet Site**

Councilor Leonard requested a status report from the Town Administrator with regards to the Town Internet site. Approximately 3-4 hours per month spent maintaining the site, committees post agendas, etc. Questioned whether material go through the Administrator. Councilor Roderick noted most websites have a “gatekeeper”. Councilor Leonard questioned if it was appropriate to have the Administrator as the gatekeeper to elected bodies. President Bollin thought this topic more appropriate for a workshop.

Councilor Durfee made a motion, seconded by Councilor Roderick to put this item on the agenda for the workshop on March 30<sup>th</sup>. Motion passed unanimously.

#### **Councilor Leonard – Request Status Report From Town Administrator/Town Planner on State Review of Revised Town Comprehensive Plan**

Christopher Spencer, Town Planner, appeared before the Council to provide a status report. The Comprehensive Plan (Comp. Plan) goes to the State, gets reviewed by a number of State agencies, comes back to the Town and then goes back to the State. Submitted a report to the State at the end of November, received a reply in late December. Best plan of action is to go before the Planning Board for an advisory and then back to the Council. There are some issues from the State regarding density and boundary in North Tiverton. Councilor Durfee noted the Council approved the document in September 2006 and under State law has to update every five years. According to Mr. Spencer after the update gets final approval, the five years starts at that time. The State is doing a complete review of the whole process. The Town has satisfied the State’s concerns with North Tiverton; the objective was to look at large undeveloped parcels. Will be going back before the Planning Board. Mr. Spencer passed out two updates to the Council.

#### **TOWN ADMINISTRATOR ANNOUNCEMENTS, COMMENTS AND QUESTIONS**

1. There are receptacles at the landfill for ewaste and televisions, no charge if brought to the landfill.
2. The Budget Committee has requested a meeting with the Council as soon as possible. The consensus was March 12<sup>th</sup>. Town Administrator to contact the Budget Committee for confirmation.

#### **COUNCIL ANNOUNCEMENTS, COMMENTS AND QUESTIONS:**

##### **1. Councilors Roderick and Lambert – Updating F/Y 2009/10 Budget**

##### **a. Town Administrator – Distribution of Updated Budget Report F/Y 2009/10**

Looking to send the updated budget to the Budget Committee with a cover letter that the budget may be further revised. Councilor Lambert was apprehensive about submitting an approved budget when some of the numbers could still change. President Bollin said the Council was obligated to submit the budget, but the letter reserves the right to revise or change the budget as more information is received. Councilor Durfee noted this level budget represents a decrease from last year. Provides no increases for any employees, some items reduced. Working with a document, suggested the possibility of recessing the Financial Town Meeting until the State numbers come in late May.

Christopher Cotta, former Chair of the Budget Committee felt this action by the Council was historically accurate, Budget Committee has to be somewhat flexible, and because of revaluation there will be some disparity. The Budget Committee should continue to do its due diligence, as the General Assembly may not act until late June in this extenuating year.

Councilor Costa agreed the Council should make it clear in the letter this is not a final budget. Administrator Goncalo had concern with utility costs. Town had absorbed two years of level funding.

Councilor Durfee made a motion, seconded by Councilor Lambert to forward the budget with the appropriate cover letter stating approved at this time with the right to make recommended changes.

Motion passed unanimously.

**TOWN SOLICITOR, ANNOUNCEMENTS, COMMENTS AND QUESTIONS:**

By way of a public update on Corvello vs NE Gas, this matter is scheduled for mediation before Federal Magistrate Almond on March 6<sup>th</sup>.

**CLOSED EXECUTIVE SESSION:**

**Town Administrator – 42-46-5(a) (5) – Possible Acquisition or Disposition of Town Held Property**

**Town Solicitor – 42-46-5(a)(6)-Prospective Business or Industry Locating in the State of RI When an Open Meeting Would Have a Detrimental Effect on the Interest of the Public**

**Town Administrator – 42-46-5(a)(2) – Collective Bargaining AFSCME, Teamsters, IAFF and IBPO**

**Town Solicitor - Litigation – 42-46-5(a) (2)**

In Open Session, Councilor Durfee made a motion, seconded by Councilor Arruda to enter into Executive Session pursuant to 42-46-5(a)(5) Possible Acquisition or Disposition of Town Held Property. Motion Passed unanimously.

Councilor Durfee further motioned to remain in Executive Session pursuant to 42-46-5(a)(6) Prospective Business or Industry Locating in the State of Rhode Island when an Open Meeting would have a detrimental effect on the interest of the public. Seconded by Councilor Arruda, the motion passed unanimously.

Councilor Durfee motioned to further remain in Executive Session pursuant to 42-46-5(a)(2)-Collective Bargaining AFSCME, Teamsters, IAFF and IBPO. Seconded by Councilor Roderick, motion passed unanimously.

Councilor Durfee motioned to further remain in Executive Session pursuant to 42-46-5(a)(2)-Litigation. Seconded by Councilor Arruda, motion passed unanimously.

The Council entered into Executive Session at approximately 915 p.m.

The Council returned to Open Session at approximately 10:20 p.m.

**OPEN SESSION:**

Council President Bollin announced no formal action had been taken in Executive Session.

Councilor Costa motioned to seal the minutes of the Executive Session, seconded by Councilor Roderick. Motion passed unanimously.

**ADJOURNMENT:**

Councilor Costa made a motion, seconded by Councilor Roderick to adjourn. The motion passed unanimously.

The meeting adjourned at approximately 10:25 p.m.

A True Copy

ATTEST:

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Nancy L. Mello, Town Clerk